

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed June 3, 2004. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Allowable Subject Matter**

Applicant appreciates the Examiner's statement that the application is in condition for allowance except for formal matters. Amendments have been made to overcome every objection, and it is submitted that each of the claims in this case is presently in condition for allowance.

### **II. Drawing Objections**

The drawings have been objected to for the following reasons stated in the Office Action:

Figure 2 of the drawings is objected to because labeling (i.e. in words) of components 100, 125 and 126, are needed so as to facilitate an understanding of the invention from the drawings. Appropriate correction is required.

In response to this objection, Applicants have amended FIG. 2. Applicants have also made corrections to the line thickness in this figure. Applicants have also amended FIG. 4 to delete a repeated term. Clean copies of FIGS. 2 and 4 and marked-up copies of the same that shows all changes in red ink have been included with this response. It is asserted that no new matter has been added. Thus, Applicants respectfully submit that the objections have been overcome

### **III. Abstract Objections**

The abstract have been objected to for the following reasons stated in the Office Action:

The abstract is objected to because it is greater than 150 words and contains legal phraseology (i.e., reads like a claim "...computer system comprises: means for..."). Appropriate correction is required.

Through this response, all such legal language has been removed and the word count is less than 150. Thus, Applicants respectfully submit that the objections have been overcome.

### **IV. Specification Objections**

The specification has been objected to for the following reasons stated in the Office Action:

The use of various trademarks (see pages 6 and 7 of the specification) have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Through this response, Applicants have capitalized the trademark terms, and thus respectfully submit that the objections have been overcome.

### **V. Claim Objections**

Claims have been objected to under various grounds. The Office Action provides as follows:

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining

claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 52 (the second claim number as 52)-59 have been renumbered as claims 53-60 respectively.

Claims 1-60 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, lines 2-3, cite "each of the plurality of nodes" which it appears should be "each node of the plurality of nodes". This same type of problem also occurs in various other locations of the claims. Claim 1, lines 10-11, cite "each of the plurality of system configuration categories" which it appears should be "each system configuration category of the plurality of system configuration categories". This same type also occurs in various other locations of the claims. Claim 1, line 11, cites "each of the plurality of threshold benchmarks" which it appears should be "each threshold benchmark of the plurality of threshold benchmarks." Claim 12, line 1, cites "The method of claim 11..." however claim 11 is a system claim. Claim 16, lines 1-2, cites "network management entity" which lacks antecedent basis. Claim 17, line 2, cites "the providing the audit information" which it appears should be "the generating the audit information." This same type of problem also occurs in claim 29, line 2. The preamble of claim 21 refers to a computer-readable medium for providing an automated diagnostic audit for a cluster computer system however as the claim does not clearly indicate that the portions of logic are being executed on the computer system it is not clear how the functionality of the computer-readable medium is being realized. This same type of problem also occurs in claim 51. Also, claim 51 is directed toward a computer-readable medium with portions of logic, however after the section concerning the third portion of logic there are the steps of a method claim and it is not clear as written if the steps are being accomplished by another portion of logic or the third portion of logic. Claim 60 cites "a fifth portion of logic" which is confusing because there was not a fourth portion of logic in claim 51 from which this claim depends. The examiner ask the applicant to better claim the limitations cited above. While the examiner understands the intentions of the application he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Applicants have amended claims starting from the second instance of original claim 52 to claim 59 by renumbering the same as claims 53-60. Further, Applicants have amended the claims to address the issues cited above, and respectfully submit that these objections have been overcome.

## **VI. Listing of References in the Specification**

The Office Action provides the following statement with regard to listing of references:

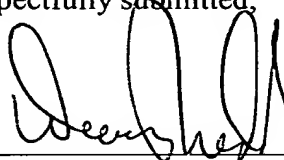
The listing of references in the specification (see pages 9 and 12) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP §609A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO -892, they have not been considered.

Applicants have included in this response a listing of the reference in an information disclosure statement.

### CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

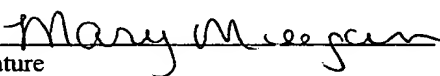
Respectfully submitted,



David Rodack  
Registration No. 47,034

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

8-2-04

  
Signature

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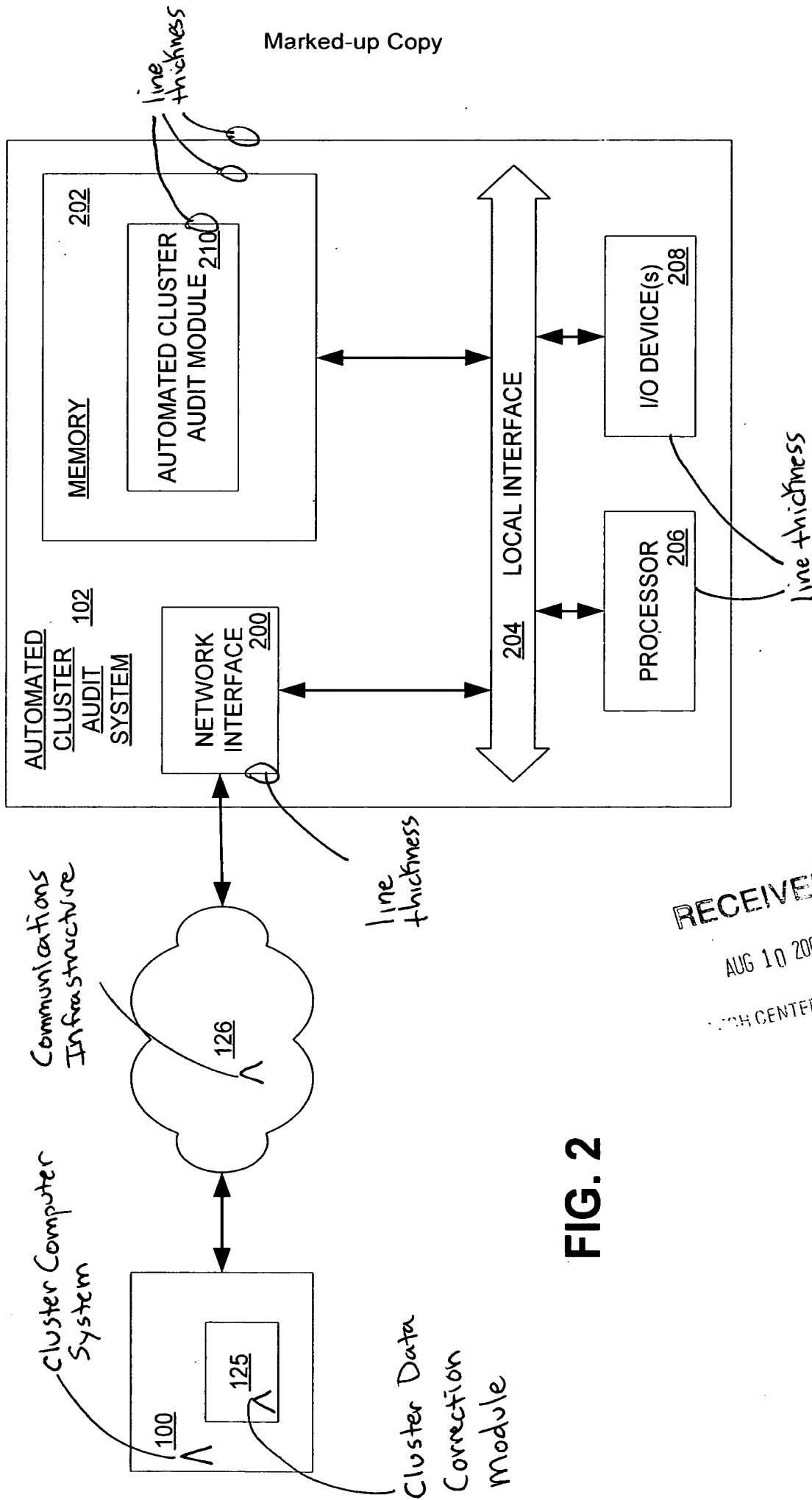


FIG. 2

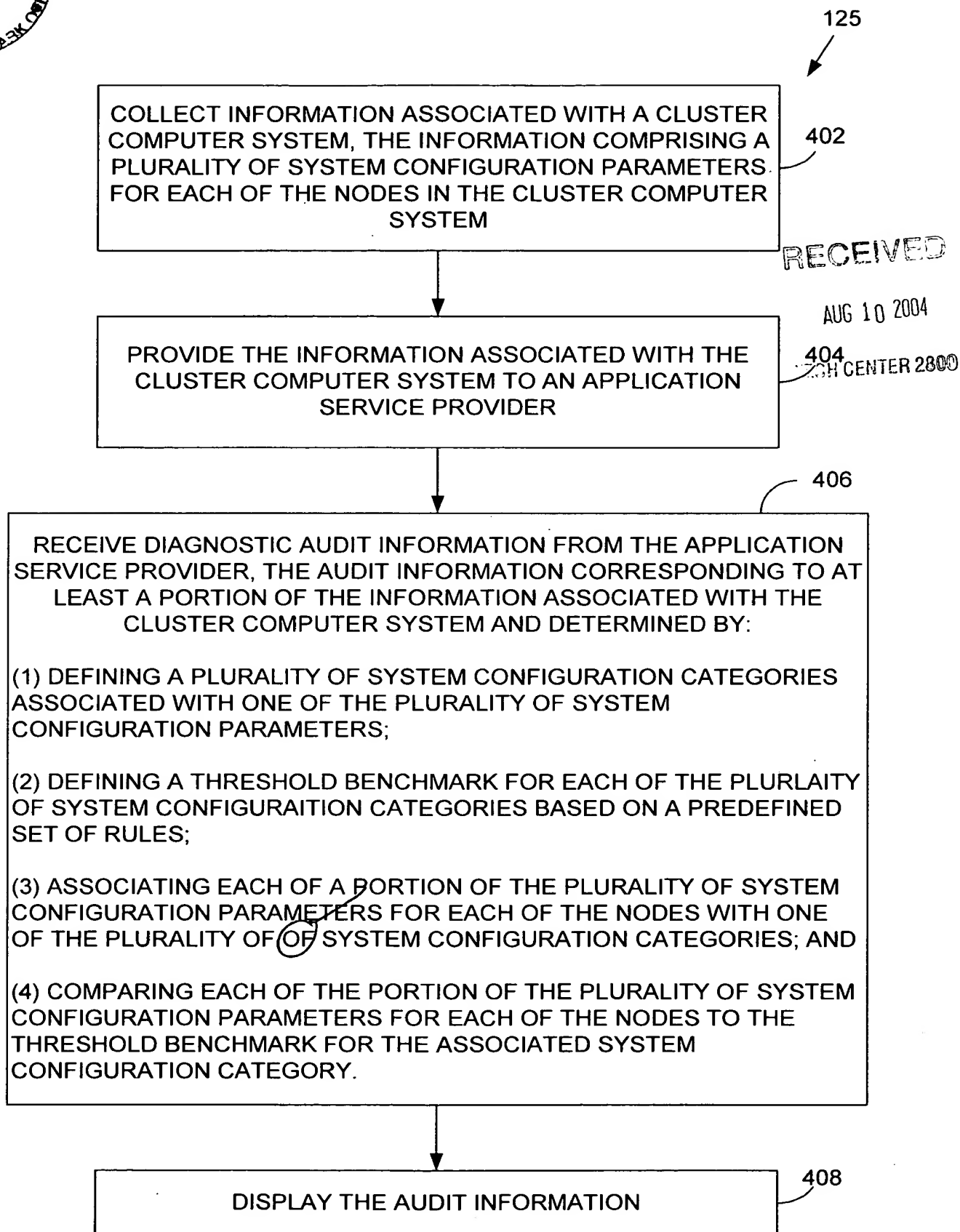
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**FIG. 4**